

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Ohio Edison Company, The Cleveland	)	
Electric Illuminating Company and The	)	
Toledo Edison Company for Authority to	)	Case No. 23-301-EL-SSO
Provide for a Standard Service Offer	)	
Pursuant to R.C. 4928.143 in the Form of	)	
An Electric Security Plan.	)	

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**INITIAL POST-HEARING BRIEF OF  
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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**I. Introduction**

In this Ohio Public Utilities Commission (the “Commission”) proceeding, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) filed an application for approval of its fifth electric security plan (“ESP V”) pursuant to R.C. 4928.143. Ohio Partners for Affordable Energy (“OPAE”) participated in the last three electric security plans for FirstEnergy and was granted intervention in this proceeding as well. OPAE advocates for affordable energy policies for low-and-moderate income Ohioans. In this proceeding, OPAE sponsored John Sarver as a witness in the evidentiary hearing and his testimony addressed the necessity of continuing FirstEnergy’s proposed low-income energy efficiency programs. This issue, as well as the proposed changes to FirstEnergy’s fuel funds are the focus of OPAE’s Initial Post-Hearing Brief.

## II. Legal Standard

Pursuant to Section 4928.141(A) of the Ohio Revised Code, each electric distribution utility is required to provide a standard service offer in accordance with Sections 4928.142 or 4928.143. Section 4928.143(C)(1) provides that the Commission:

[S]hall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.

The Commission considers both quantitative and qualitative factors in its analysis.<sup>1</sup> Specifically, all provisions of a proposed ESP are considered as a “total package.”<sup>2</sup> Further, as the Commission considers whether to approve the ESP, it must keep in mind its duty ensure reasonably priced electric service and to protect at-risk populations, including low-and-moderate income Ohioans, consistent with Ohio policy as codified in R.C. 4928.02(A)&(L).

## III. Argument

### A. *The Commission should approve FirstEnergy’s proposed low-income energy efficiency program.*

OPAE supports the proposed low-income energy efficiency program which is a continuation of the previously Commission approved Community Connections program. It

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<sup>1</sup> See *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, Opinion and Order at 94 (Feb. 25, 2015) (“AEP ESP 3 Order”); *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 56 (July 18, 2012) (“FirstEnergy ESP 3 Order”); See also *In re Columbus Southern Power Co.*, 128 Ohio St. 3d 402, 2011-Ohio-958, ¶ 27 (2011). (“Moreover, while it is true that the commission must approve an electric security plan if it is ‘more favorable in the aggregate’ than an expected market-rate offer, that fact does not bind the commission to a strict price comparison. On the contrary, in evaluating the favorability of a plan, the statute instructs the commission to consider ‘pricing and all other terms and conditions.’ Thus, the commission must consider more than price in determining whether an electric security plan should be modified.”) (emphasis in original).

<sup>2</sup> See AEP ESP 3 Order at 94.

provides energy efficiency programing to customers with incomes up to 200% of the federal poverty level.<sup>3</sup> These programs are vital for low-and-moderate income customers because, as noted by Witness Sarver, low-income customers have disproportionately high energy burdens compared to non-low-income households and low-income households spend three times more of their income on energy bills as non-low-income households.<sup>4</sup> Low-income households generally have fewer options available to help conserve their usage and programs like the proposed continuation of Community Connections provide opportunities for low-income residents in FirstEnergy's service territory to control their usage and lower their bills.

In addition to the direct financial benefit of a lower bill, Witness Sarver testified that weatherization services, like those provided through Community Connections, can help eliminate the need for bill payment assistance for the customer receiving the services.<sup>5</sup> From this perspective, weatherization services are a long-term solution to energy affordability because they enable customers to use less energy and therefore pay less. Families who spend less on their energy bills have more resources available for other necessities such as food, medicine, and clothes. Further, the providers of weatherization services must inspect and conduct home energy audits which can lead to identifying and remedying unsafe conditions in homes such as gas leaks, poor ventilation, and faulty wiring.<sup>6</sup> Absent programs that send in home energy auditors, like Community Connections, these homeowners may never be made aware of these unsafe conditions let alone have them fixed.

Witness Sarver also testified that although the state offers weatherization services through programs such as the Home Weatherization Assistance Program ("HWAP"), Community

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<sup>3</sup> FirstEnergy Ex. 3 p. 17:9-11.

<sup>4</sup> OPAE Ex. 1 p. 4:24-26.

<sup>5</sup> Id. p. 5:16-17.

<sup>6</sup> Id. p. 6:3-4.

Connections is still a necessary program which maximizes the impact of the HWAP program through stretching the HWAP funding farther.<sup>7</sup> HWAP program administrators expect providers to leverage HWAP funds with other funding sources, such as Community Connections, to maximize the benefits that accrue to customers. Witness Sarver noted that HWAP requires providers to the use of all leveraged funds and provide that information in an annual report.<sup>8</sup>

FirstEnergy has proposed to continue the program with an increased budget of \$8.6 million per year over the proposed four-year term. The \$8.6 million annual budget is approximately \$2 million more than when the program was last authorized about eight years ago. Since that time, Witness Sarver testified, OPAE has seen the cost of providing weatherization services to low-income Ohioans increase.<sup>9</sup> The budget increase is necessary to meet the needs of customers in the face of rising costs, though OPAE would not oppose the Commission modifying the budget further upward so that even more customers can be served. Though, if the Commission were to do so, OPAE would recommend considering simultaneously modifying the income threshold upward as well, consistent with the Commission's decisions in other cases such as 22-900-EL-SSO, so that even more customers can receive these services.

Staff Witness Braun testified that Staff proposes modifying the proposed ESP term from eight to six years and therefore Staff requests modifying the energy efficiency programs, originally proposed for a four-year term, to be modified to a three-year term, with an option to extend, modify, or cease the programs.<sup>10</sup> OPAE would respectfully request the Commission set the term of the proposed continuation of the Community Connections program consistent with the overall term the Commission approves for the ESP. There is no benefit to shortening the term and, in fact,

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<sup>7</sup> Id. p. 7.

<sup>8</sup> Id. p. 7:21-22.

<sup>9</sup> Id. 1 p.4:16-17.

<sup>10</sup> Staff Ex. 3 p.3:12-18.

the uncertainty that arises from setting the term as something less than the full electric security plan term creates budgeting and planning problems for program administrators who may have to ramp down and then ramp back up a program in the middle of the proposed six-year term while the merits of the program are once again debated at the Commission. Further, the Commission, in ESP 4, previously approved Community Connections to be funded from 2016 through 2023 so there is precedent for the term of Community Connections to run concurrent with the overall electric security plan term. OPAE respectfully requests that the Commission continue its practice of setting the term of Community Connections as equal to the term of the ESP.

***B. OPAE supports the FirstEnergy's proposals related to its fuel funds.***

FirstEnergy is proposing continue a \$1 million fuel fund available to all of its customers and to eliminate a \$1.39 million fuel fund that was previously approved only to serve customers within the Cleveland Electric Illuminating ("CEI") territory and replace with a new fuel fund set at \$1.5 million annually and available to customers of all three FirstEnergy Service territories.<sup>11</sup> OPAE previously opposed the limitation of the \$1.39 million fuel fund to just CEI customers when it was originally proposed.<sup>12</sup> FirstEnergy's proposal to eliminate that limitation and increase the eligibility to all FirstEnergy service territories is a welcome proposed change which OPAE respectfully requests the Commission adopt. OPAE respectfully requests that the Commission approve both the reapproval of one fuel fund and the creation of the other.

The Commission has regularly issued orders approving the establishment of fuel funds to assist low-income families. In the case of FirstEnergy, the provision of these funds has been made through a series of Standard Service Offer cases. See Case Nos. 08-935-EL-SSO, et.al.; 10-388-EL-SSO, et.al.; and, 12-1230-EL-SSO, et.al. It is therefore logical to continue these important

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<sup>11</sup> FirstEnergy Ex. 2 p.8:1-8.

<sup>12</sup> See testimony of David Rinebolt p. 9:1-10 on behalf of OPAE in Case No. 14-1297-EL-SSO.

assistance programs. Approval of these programs is also consistent with the state policy of “protecting at risk populations” codified in R.C. 4928.02(L). OPAE would note that given then fuel fund originally serving CEI was set at \$1.39 million is being expanded to serve all three FirstEnergy service territories, the increase of approximately \$200,000 to \$1.5 million may not be enough to have a similar impact the fund in CEI across all territories. Therefore, the Commission could consider modifying the amount available as part of the second fuel fund to make it commensurate across all three territories with the original amount approved for just the CEI territory.

***C. The proposed ESP is more favorable in the aggregate as compared to the expected results of an MRO only if the weatherization and bill payment assistance programs remain.***

In order to approve an ESP, R.C. 4928.143(C)(1) requires the Commission determine that:

[T]he electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.

This test requires the Commission to consider both qualitative and quantitative aspects of the Stipulation as compared to an MRO.<sup>13</sup> Staff Witness Messenger testified to the benefits of the Stipulation over a hypothetical MRO. From a quantitative perspective, the Stipulation is similar to an MRO because FirstEnergy will implement a competitive bid process to secure energy for its standard offer rate just as it would under an MRO.<sup>14</sup> Though Staff found quantitative benefits in the form of shareholder-funded programs that would not otherwise exist as part of an MRO.<sup>15</sup>

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<sup>13</sup> *In re Columbus Southern Power Co.*, 128 Ohio St. 3d 402, 2011-Ohio-958, ¶ 27 (2011). (“Moreover, while it is true that the commission must approve an electric security plan if it is ‘more favorable in the aggregate’ than an expected market-rate offer, that fact does not bind the commission to a strict price comparison. On the contrary, in evaluating the favorability of a plan, the statute instructs the commission to consider ‘pricing *and all other* terms and conditions.’ Thus, the commission must consider more than price in determining whether an electric security plan should be modified.”)

<sup>14</sup> Staff Ex. 1 p. 4:1-4.

<sup>15</sup> *Id.* p. 4:10-12.

From a qualitative perspective, customers benefit from the bill payment assistance fuel funds as well as the proposed low-income weatherization program. Those benefits, discussed above, would not be present in an MRO. Therefore, as long as those programs are included if the Commission were to modify the proposed ESP, the proposed ESP would be more favorable in the aggregate than an MRO.

## **V. Conclusion**

For all of the foregoing reasons, OPAC respectfully requests that the Commission approve the bill payment assistance and weatherization provisions of the proposed ESP if it intends to approve the ESP.

/s/Robert Dove

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**CERTIFICATE OF SERVICE**

I certify that The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case on this the 19<sup>th</sup> day of January 2024.

/s/ Robert Dove \_\_\_\_\_  
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